

ASSEMBLY BILL

No. 614

Introduced by Assembly Member Brown

February 24, 2015

An act to amend Section 1275 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 614, as introduced, Brown. Health care standards of practice.

Existing law authorizes the State Department of Public Health to promulgate rules and regulations regarding health facilities, in accordance with the provisions of the Administrative Procedure Act.

This bill would authorize the department to use a streamlined administrative process to update regulatory references to health care standards of practice adopted by a state or national association when outdated standards are already referenced in the California Code of Regulations. The procedure created by this bill would, among other things, require the department to post the update on the department's Internet Web site, notify stakeholders of the proposed change, accept comments, and consider those comments prior to the adoption of the new regulations. This bill would require, if a member of the public requests a public hearing, that the department hold a hearing and consider any comments. This bill would, if comments are submitted in opposition to the proposed change, require the department to instead follow the procedures provided for by the Administrative Procedure Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1275 of the Health and Safety Code is amended to read:

1275. (a) (1) ~~The state~~ department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, any reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any ~~statute of this state~~ *other law* including, but not limited to, the ~~State~~ *California* Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13.

ALL

(2) All regulations in effect on December 31, 1973, which were adopted by the State Board of Public Health, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Health relating to licensed health facilities shall remain in full force and effect until altered, amended, or repealed by the director or pursuant to Section 25 or other provisions of law.

(b) Notwithstanding this section or any other ~~provision of~~ law, the Office of Statewide Health Planning and Development shall adopt and enforce regulations prescribing building standards for the adequacy and safety of health facility physical plants.

(c) The building standards adopted by the State Fire Marshal, and the Office of Statewide Health Planning and Development pursuant to subdivision (b), for the adequacy and safety of freestanding physical plants housing outpatient services of a health facility licensed under subdivision (a) or (b) of Section 1250 shall not be more restrictive or comprehensive than the comparable building standards established, or otherwise made applicable, by the State Fire Marshal and the Office of Statewide Health Planning and Development to clinics and other facilities licensed pursuant to Chapter 1 (commencing with Section 1200).

(d) Except as provided in subdivision (f), the licensing standards adopted by the ~~state~~ department under subdivision (a) for outpatient services located in a freestanding physical plant of a health facility

1 licensed under subdivision (a) or (b) of Section 1250 shall not be
2 more restrictive or comprehensive than the comparable licensing
3 standards applied by the ~~state~~ department to clinics and other
4 facilities licensed under Chapter 1 (commencing with Section
5 1200).

6 (e) Except as provided in subdivision (f), the state agencies
7 specified in subdivisions (c) and (d) shall not enforce any standard
8 applicable to outpatient services located in a freestanding physical
9 plant of a health facility licensed pursuant to subdivision (a) or (b)
10 of Section 1250, to the extent that the standard is more restrictive
11 or comprehensive than the comparable licensing standards applied
12 to clinics and other facilities licensed under Chapter 1
13 (commencing with Section 1200).

14 (f) All health care professionals providing services in settings
15 authorized by this section shall be members of the organized
16 medical staff of the health facility to the extent medical staff
17 membership would be required for the provision of the services
18 within the health facility. All services shall be provided under the
19 respective responsibilities of the governing body and medical staff
20 of the health facility.

21 (g) *(1) Notwithstanding any other law, the department may,*
22 *without taking regulatory action pursuant to Chapter 3.5*
23 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
24 *2 of the Government Code, update references in the California*
25 *Code of Regulations to health care standards of practice adopted*
26 *by a recognized state or national association when the state or*
27 *national association and its outdated standards are already named*
28 *in the California Code of Regulations. When updating these*
29 *references, the department shall:*

30 *(A) Post the name of the state or national association, the title*
31 *of the health care standards of practice, and the version of the*
32 *updated health care standards of practice to be adopted on the*
33 *department's Internet Web site.*

34 *(B) Post notice of the department's proposed adoption of the*
35 *state or national association's health care standards of practice*
36 *on its Internet Web site for at least 45 days.*

37 *(C) Notify stakeholders that the proposed standards have been*
38 *posted on the department's Internet Web site by issuing a mailing*
39 *to the most recent stakeholder list on file with the department's*
40 *Office of Regulations.*

1 (D) Accept public comment for at least 30 days after the
2 conclusion of the 45-day posting period specified in subparagraph
3 (B).

4 (2) If a member of the public requests a public hearing during
5 the public comment period, a hearing shall be held and comments
6 shall be considered prior to the adoption of the state or national
7 association's health care standards of practice.

8 (3) If no member of the public requests a public hearing, the
9 department shall consider any comments received during the public
10 comment period prior to the adoption of the health care standards.

11 (4) Written responses to public comments shall not be required.
12 If public comments are submitted in opposition to the adoption of
13 the proposed standards, the department shall seek adoption of the
14 standards using the regulatory process specified in Chapter 3.5
15 (commencing with Section 11340) of Part 1 of Division 3 of Title
16 2 of the Government Code.

17 ~~(g) For~~

18 (h) For purposes of this section, "freestanding physical plant"
19 means any building which is not physically attached to a building
20 in which inpatient services are provided.